# BEFORE THE U.S. DEPARTMENT OF ENERGY Washington, D.C. 20585

In the Matter of:	)	
Central Moloney, Inc. (distribution transformers)	)	Case Number: 2013-SE-4702
	)	

### NOTICE OF PROPOSED CIVIL PENALTY

Date issued: March 20, 2013

Number of alleged violations:

15

Maximum possible assessment:

\$3,000

Proposed civil penalty:

\$3,000

The Office of the General Counsel of the U.S. Department of Energy ("DOE") alleges that Central Moloney, Inc. ("CMI") has violated certain provisions of the Energy Policy and Conservation Act, 42 U.S.C. § 6291 et seq. ("the Act"), and 10 C.F.R. Part 429.

### Specifically, DOE alleges:

- 1. CMI manufactures and has manufactured a variety of liquid-immersed distribution transformers that it distributes and has distributed in commerce in the United States of America, including, but not limited to, basic models 30300150 and 32500095.
- CMI's liquid-immersed distribution transformer basic models 30300150 and 32500095 are "covered equipment" as defined in 10 C.F.R. § 431.2 and 10 C.F.R. § 431.192.
- 3. DOE had reason to believe, based upon a certification report submitted by CMI, that basic models 30300150 and 32500095 may not meet the applicable energy conservation standard.
- 4. Since January 1, 2010, CMI has manufactured and distributed in commerce in the United States 14 units of liquid-immersed distribution transformer basic model 30300150 and one unit of liquid-immersed distribution transformer basic model 32500095.

- 5. According to data obtained from CMI's own testing, basic model 30300150 operates at an energy efficiency level of 99.22%, less than the minimum efficiency level required for its kVA rating as described in 10 C.F.R. § 431.196(b) for units of this basic model manufactured on or after January 1, 2010.
- 6. According to data obtained from CMI's own testing, basic model 32500095 operates at an energy efficiency level of 99.48%, less than the minimum efficiency level required for its kVA rating as described in 10 C.F.R. § 431.196(b) for units of this basic model manufactured on or after January 1, 2010.
- 7. A manufacturer's distribution in U.S. commerce of basic models of liquid-immersed distribution transformers that do not comply with the energy conservation standards found in 10 C.F.R. § 431.196(b) constitutes prohibited acts pursuant to 10 C.F.R. § 429.102(a)(6) and is subject to civil penalties as described in 10 C.F.R. § 429.120.

# The following information is provided in question and answer format to help explain your legal obligations and options.

#### What do I do now?

DOE is offering a settlement of \$2,500 if you submit the signed compromise agreement and pay the fine within thirty (30) days of the date of an Adopting Order adopting the compromise agreement.

You have other options as described below.

## What are my other options?

Within thirty (30) calendar days, you must select Option 1 or Option 2 below if you do *not* agree to DOE's settlement offer.

Option 1: You may elect to have DOE issue an order assessing a civil penalty. Failure to pay the assessed penalty within sixty (60) calendar days of the order assessing such penalty will result in referral of the case to a U.S. District Court for an order affirming the assessment of the civil penalty. The District Court has the authority to review the law and the facts de novo.

Option 2: You may elect to have DOE refer this matter to an Administrative Law Judge (ALJ) for an agency hearing on the record. Upon a finding of violation by the ALJ, DOE will issue an order assessing a civil penalty. This order may be appealed to the appropriate U.S. Court of Appeals.

### When must I respond?

You must submit a signed compromise agreement within thirty (30) calendar days of the date of this notice to pay the lowest fine. If you do not wish to settle AND you wish to choose Option 1 as described above, you must notify DOE within thirty (30) calendar days of the date you received this notice of your selection of Option 1. Otherwise, if you do not settle the case, DOE will refer to the case to an ALJ as described in Option 2.

How should I submit my response?

To assure timely receipt, DOE strongly encourages you to submit your response by email, fax, or an express delivery service. DOE accepts scanned images of signed documents (such as PDFs). Responses may be sent by any of the following methods:

By email to:

douglas.rawald@hq.doe.gov

By fax to: By mail to: (202) 287-6998 Douglas Rawald

U.S. Department of Energy

Office of the General Counsel (GC-32)

1000 Independence Ave., SW

Washington, DC 20585

What happens if I fail to respond?

If you fail to respond within thirty (30) calendar days after receiving this notice, or by the time of any extension granted by DOE, DOE will refer the case to an ALJ for a full administrative hearing.

What should I include in my response?

- 1) If you wish to accept DOE's settlement offer, you should submit the signed compromise agreement. If you do not wish to accept DOE's settlement offer, you should specify if you wish to elect Option 1; otherwise, DOE will proceed with Option 2, as described above.
- 2) Provide your Taxpayer Identification Number (TIN). The Debt Collection Improvement Act (DCIA) requires all Federal agencies to obtain the TIN in any case which may give rise to a debt to the government.

How did you calculate the maximum possible assessment?

Federal law sets a maximum civil penalty for each unit of a covered product that does not meet an applicable energy or water conservation standard that is distributed in commerce in the U.S. in violation of 10 C.F.R. § 429.102(a)(6). The maximum penalty, as described in 10 C.F.R. at § 429.120, is \$200 per unit.

If you have any questions, please contact Doug Rawald via phone at (202) 586-6734 or email at douglas.rawald@hq.doe.gov.

Issued by:

Laura L. Barhydt

Assistant General Counsel for

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